THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

W.P.No.24056 of 2007

Dated:15.11.2007

Between:
Ravi Siva Rama Krishna Prasad and another.

..Petitioners.

and

The District Collector, Krishna and others.

..Respondents.

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THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

W.P.No.24056 of 2007

ORDER:

This writ petition is filed for a writ of mandamus to declare notification, dated 26.10.2007, issued by respondent No.1 under Section 4(1) of the Land Acquisition Act, 1894, whereunder an extent of Ac.01.92 cents of land comprised in Sy.Nos.115/1A (part), 115/2A and 116/1 (part) of Madduru village, Kankipadu Mandal, Krishna district is sought to be acquired, as illegal and invalid.

A perusal of the notification, dated 26.10.2007, shows that the subject land along with the other lands are notified for acquisition for the purpose of providing house sites to the weaker sections and the Assistant Collector, Vijayawada is authorized to perform the functions of the Collector under Section 5-A of the Act.

Sri P. Laxma Reddy, learned counsel for the petitioners stated that the land of the petitioners, which is proposed to be acquired, is a wet land, wherein paddy crop is being raised and that the same is not suitable for house site. He also stated that the Assistant Collector has no authority to hold enquiry under Section 5-A of the Act since no such delegation is made to him by the State Government.

As regards the first contention, whether the land of the petitioners is suitable for being used as house site or not is an issue, which could be conveniently raised by the petitioners in the enquiry to be held under Section 5-A of the Act. Since the enquiry is not dispensed with, an opportunity is available to the petitioner to raise all legally sustainable objections against the proposed acquisition. Therefore, I am not inclined to go into this aspect at this stage.

With respect to the second contention that the Assistant Collector is not competent to hold enquiry under Section 5-A of the Act, it may be noticed that the petitioners have failed to make an averment raising this ground in their affidavit. Even otherwise, I am not inclined to accept the contention of the petitioners for the reason that vide G.O.Ms.No.822, Revenue (K) Department, dated 16.07.1985, the Government of Andhra Pradesh in exercise of its power under Section 3(C) of the Act appointed 'Revenue Divisional Officers' and the 'Mandal Revenue Officers' in their respective jurisdictions to perform the functions of a Collector under the Act for the purpose of acquisition of lands inter alia for construction of building houses to the poor. The learned Assistant Government Pleader submitted that depending upon the cadre of the Officer and the source of recruitment of the officer, they are designated either as Revenue Officers or Assistant Collectors and that the Assistant Collector of Vijayawada, who is obviously of IAS cadre is discharging the functions of the Revenue Divisional Officer. It is therefore implied that the Assistant Collectors so long as they perform the functions of the Revenue Divisional Officers are also

covered by the said notification. I, therefore, do not see any merit in this petition.

For the aforesaid reasons, the Writ Petition is disposed of with a direction to respondent No.2 to consider the objections of the petitioners in the enquiry to be held under Section 5-A of the Act before proceeding further. Till the conclusion of the enquiry under Section 5-A of the Act and disposal of their objections, the petitioners shall not be dispossessed from the land in question. No costs.

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C.V.NAGARJUNA REDDY, J

Dated:15.11.2007

sj